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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

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8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 DAVID VAMVAKIAS, individually, and on behalf of all others similarly situated,
12 Case No.: **ED CV 12 - 01776 DDP**

13 Plaintiff,

CLASS ACTION COMPLAINT

14 vs.

JURY TRIAL DEMANDED

15 LINCOLN NATIONAL CORPORATION d/b/a
LINCOLN FINANCIAL GROUP, an INDIANA
16 corporation; and DOES 1-10, Inclusive,

17 Defendants.

18 Plaintiff DAVID VAMVAKIAS, on behalf of himself and all others similarly situated, alleges
19 the following upon information and belief based upon investigation of counsel, except to his own acts,
20 which he alleges upon personal knowledge.

21 I. PARTIES

22 1. Plaintiff David Vamvakias is a resident of San Bernardino County, California.

23 2. Defendant Lincoln National Corporation d/b/a Lincoln Financial Group is an Indiana
24 corporation that does business in California.

25 3. The true names and capacities of the Defendants sued herein as DOES 1 through 10,
26 inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names.
27 Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged
28 herein. Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and

1 capacities of the DOE Defendants when such identities become known.

2 4. At all relevant times, each and every Defendant was acting as an agent and/or
3 employee of each of the other Defendants and was acting within the course and/or scope of said
4 agency and/or employment with the full knowledge and consent of each of the Defendants. Each of
5 the acts and/or omissions complained of herein were alleged and made known to, and ratified by, each
6 of the other Defendants (Lincoln National Corporation d/b/a Lincoln Financial Group and DOE
7 Defendants will hereafter collectively be referred to as "Defendant").

8 **II. JURISDICTION AND VENUE**

9 5. A Court has diversity jurisdiction over this class action pursuant to 28 U.S.C. § 1332 as
10 amended by the Class Action Fairness Act of 2005 because the amount in controversy exceeds
11 \$5,000,000, exclusive of interest and costs, and is a class action in which some members of the class
12 are citizens of different states than the Defendant. *See* 28 U.S.C. §1332(d)(2)(A).

13 6. This Court also has personal jurisdiction over Defendant because Defendant currently
14 does business in this state.

15 7. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391 because Defendant is
16 subject to personal jurisdiction in this District and a substantial portion of the conduct complained of
17 herein occurred in this District.

18 **III. FACTS**

19 8. In the summer of 2012, Plaintiff called Defendant's customer service telephone number
20 (1-800-454-6265) to inquire about Defendant's life insurance eligibility requirements. Plaintiff was
21 connected to a customer service representative and they proceeded to have a sensitive, private and
22 confidential discussion wherein Plaintiff first provided his name and social security number and then
23 proceeded to discuss his serious concerns about his ongoing health problems and his eligibility for life
24 insurance.

25 9. Plaintiff was not aware that the call was being recorded. Defendant did not, at any
26 point during the telephone conversation with Defendant's customer service representative, advise
27 Plaintiff that the call was being recorded. Plaintiff did not give either express or implied consent to the
28 recording.

1 10. After completing his call, Plaintiff learned that Defendant records *all* incoming
 2 telephone calls but does not disclose this to callers unless specifically asked. During the course of
 3 investigating this matter, but prior to filing this Complaint, an investigator engaged by counsel for
 4 Plaintiff contacted Defendant and spoke to a representative names “Sam” and asked (1) whether
 5 Defendant records or monitors incoming telephone calls, and (2) whether Defendant discloses such
 6 recording or monitoring to callers. Defendant’s customer service representative stated unequivocally,
 7 that “all calls are recorded.”

8 11. Plaintiff expected that his telephone call would be private (i.e., neither recorded nor
 9 monitored) due to: (1) the sensitive and confidential nature of the conversation; and (2) Defendant’s
 10 assurances that it respects the privacy of its customers. Indeed, Defendant’s website assures present
 11 and future customers that “*Lincoln Financial Group is committed to keeping the personal information*
 12 *collected about our potential, current and former customers confidential and secure in compliance*
 13 *with state and federal laws.*”¹

14 12. Plaintiff’s subjective expectation of privacy was objectively reasonable based upon
 15 prevailing societal norms. Indeed, one recent poll showed that 73% of Americans believe that it is
 16 “extremely important” that conversations never be recorded or monitored without the consent of all
 17 parties. See Harris Poll #17, March 19, 2003; see also Katz, *Privacy and Information Technology*,
 18 Public Opinion Quarterly 54, no. 1 (1990), at 125-143 (concluding that privacy of telephone calls is
 19 very important to most Americans and that the idea of secretly recording or monitoring of telephone
 20 calls is upsetting to a majority of people).

21 13. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing violations of privacy of
 22 hundreds of thousands of people and to recover damages because of this unlawful practice.

23 IV. CLASS ACTION ALLEGATIONS

24 14. Plaintiff brings this class action for damages and other monetary relief on behalf of the
 25 following class:

26 ***“All persons located in California whose telephone conversations with***

27 _____
 28 ¹ See <https://www.lfg.com/LincolnPageServer?LFGPage=/lfg/lfgclient/ft/privacy/index.html> (last visited September 25, 2012).

Defendant were intentionally recorded or monitored by Defendant without disclosure by Defendant at any time during the four years preceding the filing of this Complaint.” (the “Class”).

15. Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, and individuals bound by any prior settlement. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

16. This action is brought and may be properly maintained as a class action pursuant to the provisions of Federal Rule of Civil Procedure 23(a)(1)-(4) and 23(b)(1)-(3). This action satisfies the numerosity, typicality, adequacy, predominance and superiority requirements of those provisions.

17. [Fed. R. Civ. P. 23(a)(1)]: The Class is so numerous that the individual joinder of all of its members is impractical. While the exact number and identities of Class members are unknown to Plaintiff at this time and can only be ascertained through appropriate discovery of defendant’s books and records, Plaintiff is informed and believes the Class includes hundreds of thousands of members.

18. [Fed. R. Civ. P. 23(a)(2)]: Common questions of fact and law exist as to all members of the Class which predominate over any questions affecting only individual members of the Class. These common legal and factual questions, which do not vary from class member to class member, and which may be determined without reference to the individual circumstances of any class member, include, but are not limited to, the following:

(a) Whether Defendant intentionally records or monitors confidential telephone communications;

(b) Whether Defendant obtains consent before intentionally recording or monitoring confidential telephone communications;

(c) Whether Defendant’s conduct constitutes a violation of California Penal Code sections 631(a), 632(a), 632.7 and/ or 637;

(d) Whether Defendant’s conduct is “unfair” under Bus. & Prof. Code Section 17200;

1 (e) Whether, as a result of Defendant's misconduct, Plaintiff and the Class are
2 entitled to damages, restitution, equitable relief and other relief, and the amount and
3 nature of such relief.

4 19. [Fed. R. Civ. P. 23(a)(3)]: Plaintiff's claims are typical of the claims of the members of
5 the Class. Plaintiff and all members of the Class have been subjected to Defendant's common course
6 of unlawful conduct as complained of herein and are entitled to the same statutory damages based on
7 Defendant's wrongful conduct as alleged herein.

8 20. [Fed. R. Civ. P. 23(a)(4)]: Plaintiff will fairly and adequately protect the interests of
9 the members of the Class. Plaintiff has retained attorneys experienced in the prosecution of class
10 actions who have previously been certified as class counsel in a variety of class action lawsuits in both
11 state and federal court.

12 21. [Fed. R. Civ. P. 23(b)(3)]: A class action is superior to other available methods of fair
13 and efficient adjudication of this controversy, since individual litigation of the claims of all Class
14 members is impracticable. Even if every Class member could afford individual litigation, the court
15 system could not. It would be unduly burdensome to the courts in which individual litigation of
16 numerous issues would proceed. Individualized litigation would also present the potential for varying,
17 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to
18 the court system resulting from multiple trials of the same complex factual issues. By contrast, the
19 conduct of this action as a class action, with respect to some or all of the issues presented herein,
20 presents fewer management difficulties, conserves the resources of the parties and of the court system,
21 and protects the rights of each Class member.

22 22. [Fed. R. Civ. P. 23(b)(1)(A)]: The prosecution of separate actions by hundreds of
23 thousands of individual Class members would create the risk of inconsistent or varying adjudications
24 with respect to, among other things, the need for and the nature of proper notice, which Defendant
25 must provide to all Class members.

26 23. [Fed. R. Civ. P. 23(b)(1)(B)]: The prosecution of separate actions by individual class
27 members would create a risk of adjudications with respect to them that would, as a practical matter, be
28 dispositive of the interests of the other Class members not parties to such adjudications or that would

1 substantially impair or impede the ability of such non-party Class members to protect their interests.

2 24. [Fed. R. Civ. P. 23(b)(2)]: Defendant has acted or refused to act in respects generally
3 applicable to the Class, thereby making appropriate final injunctive relief with regard to the members
4 of the Class as a whole.

5 **V. CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

7 **Penal Code § 630, et seq.**

8 **(By Class Against All Defendants)**

9 25. Plaintiff incorporates by this reference the allegations contained in the preceding
10 paragraphs above as if fully set forth herein.

11 26. As part of the California Invasion of Privacy Act, the Legislature enacted section 632 of
12 the California Penal Code in 1967 to address the growing concern that “advances in science and
13 technology have led to the development of new devices and techniques for the purpose of
14 eavesdropping upon private communications and that the invasion of privacy resulting from the
15 continual and increasing use of such devices and techniques has created a serious threat to the free
16 exercise of personal liberties and cannot be tolerated in a free and civilized society.” Cal. Penal Code
17 § 630.

18 27. Section 632 prohibits the non-consensual recording, monitoring, and/or eavesdropping
19 upon confidential telephone communications by means of any electronic amplifying or recording
20 device, including a wiretap. “Intentional” within the context of section 632 merely requires that a
21 defendant intend that the confidential communication be recorded, monitored, and/or eavesdropped
22 upon. *See People v. Superior Court of Los Angeles County*, 70 Cal. 2d 123, 133 (1969). No other
23 wrongful or surreptitious intent is required, only that the defendant intended to record the confidential
24 communication is necessary.

25 28. Plaintiff is informed and believes, and thereon alleges that Defendant knowingly
26 violated Cal. Pen Code § 632 by habitually, and making a practice of, routinely recording, monitoring,
27 and/or eavesdropping upon confidential communications of its customers and potential customers.
28 Such communications are considered to be confidential to those customers and potential customers

1 who call Defendant because such communications are carried on under circumstances that reasonably
 2 indicate that the customer-party to the communication desires it to be confined to them and Defendant.

3 29. Plaintiff is informed and believes, and thereon alleges that all of Defendant's
 4 employees are trained and/or directed to routinely record or monitor confidential communications with
 5 customers and potential customers by means of recording device and/or wiretap. Such employees are
 6 agents of Defendant and were acting within the course and scope of employment of Defendant when
 7 such confidential communications were recorded, monitored, and/or eavesdropped upon without
 8 Plaintiff's or the Class's knowledge.

9 30. Plaintiff is informed and believes, and thereon alleges that the foregoing recording,
 10 monitoring, and/or eavesdropping on said confidential communications without consent via recording
 11 device, including but not limited to wiretapping, constitutes a violation of California Penal Code
 12 sections 631(a) and 632.6(a).

13 31. Based on the foregoing violations, Plaintiff and members of the Class are entitled to
 14 and seek the statutory remedies provided in section 637.2 of the California Penal Code, i.e. \$5,000 per
 15 statutory violation or three times the amount of actual damages, whichever is higher.

16 32. Plaintiff and the Class further seek attorneys' fees pursuant to section 1021.5 of the
 17 California Code of Civil Procedure, or any other applicable statute, as this action enforces an
 18 important right affecting the public's interest.

19 **SECOND CAUSE OF ACTION**

20 **Penal Code § 632.7**

21 **(By Plaintiff Against All Defendants)**

22 33. Plaintiff incorporates by this reference the allegations contained in the preceding
 23 paragraphs above as if fully set forth herein.

24 34. Section 632.7 prohibits the intentional, non-consensual recording of a telephone
 25 communication without the consent of all parties where at least one party to the conversation is either
 26 using a cordless or cellular telephone. No other wrongful or surreptitious intent is required, only that
 27 the defendant intended to record the communication.

28 35. Plaintiff is informed and believes, and thereon alleges that Defendant knowingly

1 violated Cal. Pen Code § 632.7 by habitually, and making a practice of, routinely and intentionally
2 recording the cordless and cellular telephone conversations of its customers and potential customers
3 without their consent.

4 36. Plaintiff is informed and believes, and thereon alleges that all of Defendant's
5 employees are trained and/or directed to routinely record the cordless and cellular telephone
6 communications with customers and potential customers by means of recording device. Such
7 employees are agents of Defendant and were acting within the course and scope of employment of
8 Defendant when such communications were intentionally recorded without Plaintiff's or the Class's
9 consent.

10 37. Plaintiff is informed and believes, and thereon alleges that the foregoing intentional
11 recording of his and the Class's cellular and cordless telephone conversations without their consent
12 constitutes a violation of California Penal Code sections 632.7.

13 38. Based on the foregoing violations, Plaintiff and the Class are entitled to and seek the
14 statutory remedies provided in section 637.2 of the California Penal Code, i.e. \$5,000 per statutory
15 violation or three times the amount of actual damages, whichever is higher.

16 39. Plaintiff and the Class further seeks attorneys' fees pursuant to section 1021.5 of the
17 California Code of Civil Procedure, or any other applicable statute, as this action enforces an
18 important right affecting the public's interest.

19 **THIRD CAUSE OF ACTION**

20 **Business and Professions Code § 17200, et seq.**

21 **(By Class Against All Defendants)**

22 40. Plaintiff incorporates by this reference the allegations contained in the preceding
23 paragraphs above as if fully set forth herein.

24 41. California Business and Professions Code § 17200, et seq., (the "Unfair Competition
25 Law" or "UCL") authorizes private lawsuits to enjoin acts of "unfair competition" which includes any
26 unlawful, unfair, or fraudulent business practice.

27 42. The UCL imposes strict liability. Plaintiff need not prove that Defendant intentionally
28 or negligently engaged in unlawful, unfair or fraudulent business practices—but only that such

1 practices occurred.

2 43. The intentional, routine, and unlawful recording, monitoring, and/or eavesdropping
3 upon Plaintiff and the Class's confidential communications with Defendant via recording device
4 without consent is an unlawful, unfair, and fraudulent business practice as it violates section 630 et
5 seq. of the Penal Code. These unlawful practices are thus prohibited by the UCL.

6 44. In carrying out such unlawful business practices, Defendant has violated sections
7 631(a) and 632.6(a) of the California Penal Code, and various other laws, regulations, statutes, and/or
8 common law duties. Defendant's business practices alleged herein, therefore, are unlawful within the
9 meaning of the UCL.

10 45. The harm to Plaintiff and members of the public outweighs the utility of Defendant's
11 practices and, consequently, Defendant's practices, as set forth fully above, constitute an unfair
12 business act or practice within the meaning of the UCL.

13 46. Defendant's practices are additionally unfair because they have caused Plaintiff and the
14 Class substantial injury, which is not outweighed by any countervailing benefits to consumers,
15 Defendant's business, or to competition, and is not an injury the consumers themselves could have
16 reasonably avoided.

17 47. Defendant's practices, as set forth above, are unlawful business practices because they
18 violate section 630 et seq. of the Penal Code and constitute unscrupulous, unethical, and substantially
19 injurious conduct to consumers. Consequently, Defendant's practices constitute an unlawful and
20 unfair business practice within the meaning of the UCL.

21 48. Pursuant to California Business and Professions Code § 17204, an action for unfair
22 competition may be brought by any "person . . . who has suffered injury in fact and has lost money or
23 property as a result of such unfair competition." Plaintiff and the Class are entitled to statutory
24 damages or three times the amount of actual damages, whichever is higher, pursuant to section
25 637.2(a) and as such have suffered harm within the meaning of section 630 et seq. of the Penal Code.

26 49. The unlawful, unfair, and fraudulent business practices of Defendant are ongoing and
27 present a continuing threat to members of the public.

28 50. Pursuant to the UCL, Plaintiff and the Class are entitled to and seek preliminary and

1 permanent injunctive relief ordering Defendant to cease these unlawful business practices.

2
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for relief and judgment
5 as follows:

6 1. For preliminary and permanent injunctive relief enjoining Defendant, its agents,
7 servants and employees, and all persons acting in concert with them, from engaging in, and continuing
8 to engage in, the unfair, unlawful and/or fraudulent business practices alleged above and that may yet
9 be discovered in the prosecution of this action;

10 2. For certification of the putative class;

11 3. For restitution and disgorgement of all money or property wrongfully obtained by
12 Defendant by means of its herein-alleged unlawful, unfair, and fraudulent business practices;

13 4. For an accounting by Defendant for any and all profits derived by Defendant from its
14 herein-alleged unlawful, unfair, and/or fraudulent conduct and/or business practices;

15 5. An award of statutory damages of \$5,000 per violation pursuant to section 637.2(a) of
16 the Penal Code;

17 6. An award of general damages according to proof;

18 7. An award of special damages according to proof;

19 8. An award of exemplary damages;

20 9. For attorneys' fees and expenses pursuant to all applicable laws including, without
21 limitation, Code of Civil Procedure §1021.5 and the common law private attorney general doctrine;

22 10. For costs of suit; and

23 11. For such other and further relief as the Court deems just and proper.

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25 ///

26 ///

27 ///

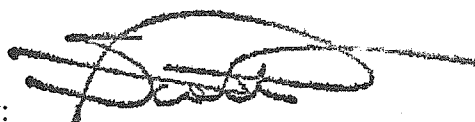
28 ///

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims and causes of action so triable in this lawsuit.

Dated: October 16, 2012

NEWPORT TRIAL GROUP
A Professional Corporation
Scott J. Ferrell



By: _____
Scott J. Ferrell
Attorney for Plaintiff and the Class

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV12- 1776 DDP (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:



Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012



Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516



Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address: NEWPORT TRIAL GROUP
 Scott J. Ferrell, Bar No. 202091
 James B. Hardin, Bar No. 205071
 Victoria C. Knowles, Bar No. 277231
 895 Dove Street, Suite 425
 Newport Beach, Ca 92660

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

DAVID VAMVAKIAS, individually, and on behalf of
 all others similarly situated,

CASE NUMBER

v.

LINCOLN NATIONAL CORPORATION d/b/a
 LINCOLN FINANCIAL GROUP, an INDIANA
 corporation; and DOES 1-10, Inclusive,

DEFENDANT(S).

ED CV 12 - 01776 DDP SPx

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

TERRY NAFISI
 Clerk, U.S. District Court

Dated: OCT 16 2012

By: [Signature]
 Deputy Clerk
 (Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> DAVID VAMVAKIAS, individually, and on behalf of all others similarly situated,		DEFENDANTS LINCOLN NATIONAL CORPORATION d/b/a LINCOLN FINANCIAL GROUP, an INDIANA corporation; and DOES 1-10, Inclusive																			
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) NEWPORT TRIAL GROUP, 895 Dove Street, Suite 425, Newport Beach, CA 92660 Tel; (949) 706-6464 Fax (949)706-6469		Attorneys (If Known)																			
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:40%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:30%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																					
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint) CLASS ACTION under F.R.C.P. 23: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$ TBD																					
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28USC §§1332 and 1391,																					
VII. NATURE OF SUIT (Place an X in one box only.)																					

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) (405(g)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

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FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

OCT 16 2012

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
DAVID VAMVAKIAS, San Bernardino County, CA	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	LINCOLN NATIONAL CORPORATION d/b/a LINCOLN FINANCIAL GROUP - Allen County, Indiana

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff's Claim - San Bernardino County, CA	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date October 16, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))